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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,135	04/16/2001	Yasushi Hosono	MM4424	5811
1109	7590	07/25/2005	EXAMINER	
ANDERSON, KILL & OLICK, P.C. 1251 AVENUE OF THE AMERICAS NEW YORK,, NY 10020-1182			HINDI, NABIL Z	
			ART UNIT	PAPER NUMBER
			2655	

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/836,135

Applicant(s)

HOSONO, YASUSHI

Examiner

NABIL Z HINDI

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,4 and 6 is/are allowed.
- 6) ☒ Claim(s) 2 and 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 2655

In response to applicant's amendment dated July 05, 2005. The following action is taken:

The claims are rejected for the same reasons set forth in the previous office action repeated herein.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshida et al (5764610).

The examiner interprets the limitation "computer data" as any data recorded on a disk since data recorded on a disk is merely ones and zeros. The examiner further interprets the limitation as DVD-ROM of non-altered, non-erasable, and non-rewritable. The reference shows an optical disk distinguishing apparatus comprising: a directory information reading means for reading the disk type from the inherently present TOC information on the disk (steps 501-504), second determining means 8 for determining if "computer data" is recorded on the disk (the reference shows whether the DVD present is a DVD-R or a DVD ROM format as cited in steps 406 and 410. The apparatus having a disk rotational control 6, 13 and 14 based on the DVD type in addition to the CD types meeting the claimed invention.

Applicant's arguments filed July 05, 2005 have been fully considered but they are not persuasive. Applicant's arguments are centered around the prior art not showing the limitation "directory name". However such limitation is interpreted by the examiner as any data on a disk such as table of contents, file names, management data...etc. the prior art does disclose such data namely the "disk identification name" or directory name providing the physical format of the medium. Applicant's arguments drawn to the use of "directory name" identifying the logical format for playback speed control as well as the disk type determination is not claimed nor supported in the claimed invention.

Applicant's submission of the requirements for the joint research agreement prior art exclusion under 35 U.S.C. 103(c) on July 05, 2005 prompted the new ground(s) of rejection under 37 CFR 1.109(b) presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.02(I)(3). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

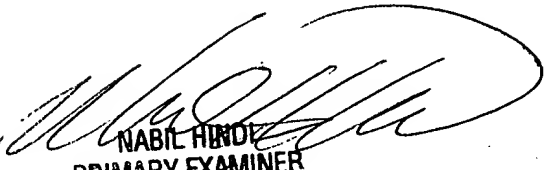
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Application/Control Number: 09/836,135

Page 4

Art Unit: 2655

Any inquiry concerning this communication should be directed to NABIL Z. HINDI
at telephone number (571) 272-7618.


NABIL HINDI
PRIMARY EXAMINER
GROUP 2655
2/15